

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:

Harlow N. Higinbotham,

Debtor.

Chapter 11

Bankruptcy No. 18-31185

Honorable LaShonda A. Hunt

NOTICE OF MOTION

Please take notice that, on **November 21, 2018, at 10:00 a.m.**, or as soon thereafter as counsel may be heard, the undersigned shall appear before the Honorable LaShonda A. Hunt, United States Bankruptcy Judge for the Northern District of Illinois, in Courtroom 719 of the United States Courthouse, at 219 South Dearborn Street, Chicago, Illinois, to present the **Motion of Wipaporn Teekhungam and the Parties' Minor Children for Leave to Conduct Rule 2004 Examinations of Susan Higinbotham, the H.N. Higinbotham Trust, and the E.D. Higinbotham Trust**, a copy of which is included herewith and served upon you, at which time and place you may appear.

Dated: November 14, 2018

Wipaporn Teekhungam, A.H., a minor, **A.H.**, a minor, and **A.H.**, a minor

By: /s/ Jeffrey K. Paulsen

One of Their Attorneys

William J. Factor (6205675)

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CERTIFICATE OF SERVICE

I, Jeffrey K. Paulsen, an attorney, hereby certify that on November 14, 2018, pursuant to Section II.B.4 of the Administrative Procedures for the Case Management/Electronic Case Filing System and Fed.R.Civ.P. 5(a), I caused a copy of the foregoing *Notice of Motion* and the accompanying *Motion* to be served electronically through the Court's Electronic Notice for Registrants on all persons identified as Registrants on the Service List below and by U.S. mail on all other persons identified on the Service List.

/s/ Jeffrey K. Paulsen

SERVICE LIST

Registrants

(Service via ECF)

Deborah K. Ebner	dkebner@deborahEbnerlaw.com, webmaster@debnertrustee.com, lizd@deborahEbnerlaw.com
William J. Factor	wfactor@wfactorlaw.com, wfactorlaw@gmail.com, bharlow@wfactorlaw.com, wfactor@ecf.inforuptcy.com, wfactormyecfmail@gmail.com, factorwr43923@notify.bestcase.com
Patrick S. Layng	USTPRegion11.ES.ECF@usdoj.gov
Jeffrey K. Paulsen	jpaulsen@wfactorlaw.com, bharlow@wfactorlaw.com, jpaulsen@ecf.inforuptcy.com
Gregory K. Stern	greg@gregstern.com, steve_horvath@ilnb.uscourts.gov

Non-Registrants

(Service via U.S. Mail)

Harlow N. Higinbotham
RD No. 2
2002 East Cass St.
Joliet, IL 60432

Susan S. Higinbotham
RD No. 2
2002 East Cass St.
Joliet, IL 60432

H.N. Higinbotham Trust
1500 North Lake Shore Dr.
Unit 13-C
Chicago, IL 60610

E.D. Higinbotham Trust
1500 North Lake Shore Dr.
Unit 13-C
Chicago, IL 60610

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In re:

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**MOTION OF WIPAPORN TEEKHUNGAM AND THE PARTIES'
MINOR CHILDREN FOR LEAVE TO CONDUCT RULE 2004
EXAMINATIONS OF SUSAN HIGINBOTHAM, THE H.N.
HIGINBOTHAM TRUST, AND THE E.D. HIGINBOTHAM
TRUST**

A party in interest may investigate topics related to a debtor's financial affairs under Rule 2004 of the Federal Rules of Bankruptcy Procedure. Harlow N. Higinbotham (the "Debtor") lists his wife, Susan Higinbotham, and two family trusts as creditors with millions of dollars in claims. The Court should authorize Wipaporn Teekhungam and the minor children of Teekhungam and the Debtor to examine the supposed creditors regarding these claims.

1. BACKGROUND.

As explained in greater detail in their motion for stay relief (ECF No. 10), Teekhungam and the children have been fighting for years to get the Debtor to pay what he owes in child support. Not only has the Debtor refused to pay what he owes, but he has also taken steps to hide his assets from Teekhungam and the children.

For example, in its September 2018 judgment, the state court handling the child support proceeding specifically found that the Debtor

has commenced an 'illusory' course of conduct designed to remove all of his assets from himself and transfer them to his wife, Susan. He has produced several promissory

notes one of which transfers all his assets to Susan in exchange for ‘legal advice and service’ she has rendered to him. Susan is not an attorney. Although the promissory notes are years old, he has done nothing to actually transfer funds to Susan. He has only created those notes in an effort to reduce his ability to pay child support.

Judgment (attached as Ex. A), at 13.

On his list of his 20 largest unsecured creditors (ECF No. 5), the Debtor identifies just 15 creditors. The creditors consist of a hand full of credit cards with claims totaling \$11,686, legal fees and costs totaling \$373,092.29, the child support claim owed to Teekhungam and the children, which is at least \$6,479,972.09 (and which the Debtor marks “disputed” even though it is memorialized in multiple court orders), and the following claims:

- Susan Higinbotham, with a claim of \$13,500,000 for “Promissory Notes;”
- H.N. Higinbotham Trust (of which the Debtor is the trustee), with a claim of \$4,620,298 for “Promissory Notes;” and
- E.D. Higinbotham Trust (of which the Debtor is the trustee), with a claim of \$1,689.959 for “Promissory Notes.”

Nearly 75% of the Debtor’s debt is allegedly owed to insiders. Particularly because the state court has already called the debt to Susan Higinbotham “illusory,” the scope and the validity of these insider claims must be evaluated. Teekhungam and the children seek authority under Rule 2004 to do just that.

2. DISCUSSION.

A party-in-interest may conduct an examination of any entity to discover information relating to the “acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor’s estate, or to the debtor’s right to discharge.” Fed. R. Bankr. P. 2004(b). Upon entry of an order authorizing an examination pursuant to Rule 2004, the production of documents and attendance of witnesses for

examination may be compelled by subpoena as provided in Rule 9016. Fed. R. Bankr. P. 2004(c).

It is generally recognized that “[t]he scope of inquiry under Bankruptcy Rule 2004 is very broad. Great latitude of inquiry is ordinarily permitted.” *In re Handy Andy Home Improvement Centers, Inc.*, 199 B.R. 376, 379 (Bankr. N.D. Ill. 1996). Courts recognize that Rule 2004 allows for a “fishing expedition” of the creditors and other parties that had dealings with the debtor without the limits placed upon an examination under the Federal Rules of Civil Procedure. *Id.* at 380. *See also Pontikes v. SIP Claimants (In re Comdisco, Inc.)*, No. 06 C 1535, 2006 WL 2375458, at *6 (N.D. Ill. Aug. 14, 2006); *In re Wilcher*, 56 B.R. 428, 433 (Bankr. N.D. Ill. 1985).

Here, the Debtor states that he owes 75% of his debt to insiders. The state court has already found that the Debtor has engaged in a “course of conduct designed to remove all of his assets from himself and transfer them to his wife, Susan.” Ex. A, at 13. Examining the claims supposedly held by Susan Higinbotham, the H.N. Higinbotham Trust, and the E.D. Higinbotham Trust is necessary to determine, among other things, the scope of claims against the estate, whether this case is nothing more than a two-party over the Debtor’s support obligations, and whether a trustee should be appointed.

Wherefore, Teekhungam and the children respectfully request that the Court authorize them to conduct examinations of Susan Higinbotham, the H.N. Higinbotham Trust, and the E.D. Higinbotham Trust, and grant such further relief as is appropriate in the circumstances.

Dated: November 14, 2018

Respectfully submitted,

Wipaporn Teekhungam, A.H., a
minor, **A.H.**, a minor, and **A.H.**, a
minor

By: /s/ Jeffrey K. Paulsen
One of Their Attorneys

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